

Case No: **C 08-276CRB**

Daniel Portugal

v.

T. Felker - warden. E + Al.,  
Custody Staff.

Motion-seeking  
Issuance of temporary  
Restraining order-against  
custody staff from any  
future threats against me  
& harassment, reprisals  
by the staff of any  
manner;

1 **I** Daniel Portugal - Do solemnly  
2 swear, that this entire entitled  
3 document to the best of my ability  
4 and knowledge is true and correct, under  
5 the penalty of Perjury and according to the letter of the  
6 law and to the color of the law, I am seeking and  
7 Requesting of your honorable court, the issuance of this  
8 Motion regarding my present, and future safety, and on  
9 an against this prison's custody staff - in an with my  
10 Handling & threats of physical harm to my person, by  
11 custody staff that is, has been involved with my  
12 movement & in dealing with me in any manner - since  
13 my arrival at High Desert State Prison, Due to my  
14 being transferred here from Salinas Valley State Prison  
15 and due to being a somewhat successful prison  
16 litigator, and safety & security issues there from threats  
17 of violence & harm to my person, verbally as well being  
18 overheard by staff upon my arrival at H.D.S.P. at  
19 receiving & release (R+R) I was verbally threatment  
20 by staff, as soon as they saw my legal work, Do to  
21 nature of my transfer to there institution as they have  
22 display a flagrant attitude towards & against S.N.Y.  
23 inmates and they make that quite clear by physical  
24 verbal abuse of, towards (us) myself shortly after  
25 my arrival I wrote a letter to the warden T. Felker  
26 regarding this matter of my concerns, my requesting  
27 to be placed in A.S.U. or a transfer emergency.

1 No to my concerns As I've laid them out in  
 2 this Motion For your Honorable court, and for  
 3 whatever reason's my request's or letter's were  
 4 Denied, now I have Filed numerous 602 Form's  
 5 against H.D.S.P. For denial appellant to medical care  
 6 by exposed to pain and suffering to live on  
 7 this medical conditions. appellant request for emergency  
 8 care category as determined by health care staff  
 9 to alleviate disabling pain immediate. this matter  
 10 continue for 3 months now, to this day this staff  
 11 allow appellant to unnecessary pain by denial to  
 12 re-new his chrono for a extra mattress, pillow  
 13 according to my chrono is perman a copy is attach  
 14 on the back of this motion.

15 2b) now T. Felker warden has open my legal mail  
 16 without my present and return back with a  
 17 Memorandum stated appellant has to submit  
 18 a CDCR-602 Form to try to address my issues  
 19 with inmate appeal office's. this matter is a  
 20 violation of appellant constitution rights his  
 21 mail was read by the warden. according to the  
 22 First and sixth Amendment violation. this case law  
 23 stated clear the officials are not allowed to  
 24 read or censor this type of mail, However, they can  
 25 open it and inspect it for contraband as long as  
 26 they do it in front of appellant see Wolff v.  
 27 McDonnell, 418 U.S. 539 (1974).

3.)

1 as well according to chapter 3 section 3.3 a  
 2 transfer may violate some other constitution  
 3 protection for example a transfer might subject  
 4 a prisoner to cruel and unusual punishment if the  
 5 prison would be placed with known enemies or others  
 6 who would cause serious harm. the fifth circuit  
 7 held that it "determine whether any of those  
 8 incidents individually constituted an ~~eight~~  
 9 amendment violation appellant rights.  
 10 4.) Prisoner are often very concerned about where  
 11 they serve their time, especially if they where or  
 12 hope to receive visits from family and friends  
 13 "family ties", prison placement are specifically  
 14 discussed in 3.4. or they wish to be in a particular  
 15 program or housing arrangement that is available  
 16 only at certain prison's. once a person is validly  
 17 convicted, the requirement of due process under the  
 18 fourteenth amendment of the U.S. constitution. see  
 19 Farmer v. Brennan (1994) 51 U.S. 825 (114 S.Ct. 1970; 128  
 20 L.Ed.2d 811) prison officials have duty to protect  
 21 prisoners from violence at the hands of other  
 22 prisoners; a constitutional violation occurs when  
 23 the danger of harm is "sufficiently serious" and  
 24 the prison official acts with "deliberate indifference  
 25 ence" to inmates health or safety. (see also <sup>p</sup> 2.24  
 26 concerning reasonable safety concerns, chapter 7. concerning  
 27 housing needs related to medical care.

V.  
Wardent Felker  
ET AL custody staff

## Points of Authority

- 1.) Cruz V. Betto, 405 U.S. 319, 31 LEd 2d 263, 92 S.Ct 1079 (1972);
- 2.) Cooper V. Pate 378 U.S. 546, 12 LEd 2d 1030, 84 S.Ct. 1733 (1964);
- 3.) Wolff V. McDonnell, 418 U.S. 539, 41 LEd 2d 935, 94 S.Ct 2923 (1974)
- 4.) Hudson V. Palmer 468 U.S. 517, 526-27, 104 S.Ct. 3194, 82 LEd 2d 393 (1984)
- 5.) Deshanner V. Winnebago County Dept of School Services, 484 U.S. 189, 200 LEd 9 S.Ct 998, 103 LEd 2d 249 (1989)
- 6.) Youngberg V. Romeo 757 U.S. 307 315-16, 102 S.Ct. 2452, 73 LEd 2d 28 (1982)
- 7.) Farmer V. U.S. 511 U.S. AT 834, 114 S.Ct (1970)
- 8.) Moore V. Mabius, 976 F.2d 268, 271 (5<sup>th</sup> Cir 1992)
- 9.) Martinez V. Stanford 323 F.3d 1178, 1183 (9<sup>th</sup> Cir 2003)
- 10.) U.S. V. Lopez U.S. CA 9<sup>th</sup> No-05 50415
- 11.) Serrato V. Clark U.S. CA 9<sup>th</sup> Cir No-06-15167 May 9, 2007
- 12.) Re-Rosenkrantz (2002) 29 Cal 4th 616, 666-128 Cal. Rptr 2nd 1041 D AT 651
- 13.) Motley V. Parks 432 F.3d 1072-1077-78. 9<sup>th</sup> Cir 2005

Daniel Pottery

Daniel Portugal  
Warden-T. Felker  
ET-Al custody staff

Points of Activity

1. Mouney V. Holoffen, 55 S. CT 340 294 US 103;
2. Deluna (2005) 126 Cal App. 4th 585, 591, 24 Cal Rptr;
3. McQuillion V. Duncan (9th Cir 2002) 306 F.3d 895 901-902;
4. Redd V. McGrath (9th Cir 2003
5. Serrato V. Clark, US, CA 9th Cir No. 06-15167; 5/07 9th Cir
6. Olsen V. Idaho, 363 F.3d 916, 922 (9th Cir 04)
7. Martinez V. Stanford, 323 F.3d 1178, 1185 (9th Cir 03)
8. Motley V. Parks 432 F.3d 102, 1077-78 (9th Cir 05)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Daniel Portugal



1. THIS PRISONS NONCOMPLIANCE WITH THE, DUE PROCESS clause
2. OF THE FEDERAL constitution;
3. (342 F.SUPP 616)
4. (483 F.2d 1059)
5. Robert O. McDonnell, ETC - 418 U.S. 539, 412, Ed 2d 935, 945 CT.
6. 2963 No. 73 679 (1974)
7. Garner - SUPRA 529 U.S. 254, AT EXPO FACTO;
8. Formost, Re Rosenkrantz, 483 F.2d 1059
9. Included in above cite is Charles Wolff Jr., ETC; ET.
10. AL Petitioner(s)
11. These above & entitled points & authority are
12. to include & being requested of & by way of your
13. Honorable court issuing an additional order, that
14. No Reprisals be taken against, or shall any be admin-
15. istered to - ON - or in any fashion against this Plaintiff
16. in this entitled action in it's entirety which is I/M
17. Daniel Portugal V-51068, & ET-AL I/M'S - As is the
18. Plaintiff in this instant action, and ongoing pending
19. litigation - pursuant to this unconstitutional action
20. of & by Dept- correct & Rehab. - violating his Due process
21. rights - to unimpeded access to the courts,
22. subjecting this Plaintiff I/M Daniel Portugal to
23. cruel & unusual punishment the right to bring a
24. grievance or action, to & through the administrative
25. process & to the courts, Free from reprisals, threats,
26. Harm from by STAFF & I/M'S alike. According to the
27. law & state & federal constitutions, Amendment 5
- 1<sup>st</sup>, 4<sup>th</sup>, 8<sup>th</sup> & 14<sup>th</sup> of the constitution.

Daniel Portugal

**INSTRUCTIONS:** A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

### HOUSING

Bottom Bunk	P/T	
Single Cell (See 128-C date: _____)	P/T	
Permanent OHU / CTC (circle one)	P/T	
Other _____	P/T	

### MEDICAL EQUIPMENT/SUPPLIES

Wheelchair: (type) _____	P/T	
Contact Lens(es) & Supplies	P/T	
Hearing Aid	P/T	
Special Garment: _____	P/T	
(specify) _____	P/T	
Rx. Glasses: _____	P/T	
Cotton Bedding	P/T	
Extra Mattress	P/T	
Other _____	P/T	

### OTHER

Therapeutic Diet: (specify) _____	P/T	
Communication Assistance	P/T	
Transport Vehicle with Lift	P/T	
Short Beard	P/T	
Other _____	P/T	

### PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS

On the above, are there any physical limitations to job assignments? ☐ Yes ☒ No  
 specify: \_\_\_\_\_

FUTURE SUSP		COMPLETED BY (PRINT NAME) J. TULLER	TITLE FIVE
SIGNATURE [Signature]		DATE 2/29/08	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH V51068 Portugal, Daniel 10/16/83
PHYSICIAN SIGNATURE [Signature]		DATE 3/19/08	
APPROVED <input checked="" type="checkbox"/> DENIED <input type="checkbox"/>			

**COMPREHENSIVE ACCOMMODATION CHRONO**

State of California

Department of Corrections and Rehabilitation  
High Desert State Prison

# Memorandum

Date : August 22, 2008

To : Inmate Portugal, V-51068  
Housing: B4-113

Subject : **INMATE/PAROLEE APPEAL FORM AND/OR CORRESPONDENCE**

My office is in receipt of your correspondence dated August 11, 2008. We are returning the correspondence to you so that you may submit a CDCR-602, Inmate/Parolee Appeal form to the Inmate Appeals Office.

You are encouraged to utilize the inmate appeal system when you feel departmental or institutional staff have acted inappropriately or you have a complaint regarding other issues. By writing to the Warden, or outside entities, you are circumventing the inmate appeal process established by the California Code of Regulations, Title 15, Chapter 1, Article 8. As you know, the inmate appeal process was designed for inmates to express their dissatisfaction with any decision or act that they can prove as having an adverse effect upon their welfare [CCR Title 15, Section 3084.1 (a)]. By utilizing the inmate appeal process, you will address your issues through the appropriate chain of command and receive information regarding the most current CDCR policy and procedures that either justifies the action taken or remedies the problem in accordance with applicable rules.

Should you continue to send appeal/complaint type correspondence to this office, it will be returned to you, as you are circumventing the appeals process.

  
T. FELKER  
Warden



To: Gary Jordan,

appellant Daniel Portugal <sup>aug 11 08</sup> #V51068  
is writing this letter regarding this  
matter.

ON 8-11-08 appellant Daniel Portugal when  
to Medical clinic around 7:45 AM and the  
doctor African American disrespect, intimidate  
and threatened appellant if I wrote him up  
for denial Medical needs and disrespect.

The reason of going to the clinic was  
regarding a 602 complaint. the doctor stated  
if I wrote him up he will pick up where I left  
in, violation of COR 15 ART 1.3004 a, b, c.

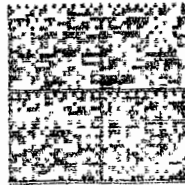
appellant Daniel Portugal Filed a 602  
regarding Medical staff complaint but  
due to the circumstance this institution  
works to slow and I need action fast  
regarding this matter appellant ask  
High Desert for a category II investigation  
but they can correct this matter.

now with this said I closed this  
letter on hope of receive a response  
from your offices, thank you.

P.S. my address  
High Desert state prison  
Daniel Portugal V-51068  
P.O. BOX 3030  
Susanville, CA 96127

Daniel Portugal  
sincerely

*Daniel R. Jordan*  
*V-SLOW 84-113*  
*U.S. POSTAGE 96127*



049J82046573

\$00.420

08/13/2008

Mailed From 96127

US POSTAGE

**BA**

RECEIVED  
Victim Compensation Board

AUG 15 2008

MAIL

*Gary Jordan*

OFFICES OF Internal Affairs  
California Department of  
Corrections and Rehabilitation

P.O. Box 3009

Sacramento, Ca 95812

Legal Mail -

Per CCR 15 ART 4.314(2)





LEGAL MAIL

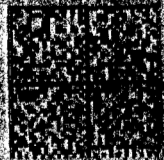
John Deery State Prison  
Jail Portage  
PO Box 3030 Bldg 113  
Sanville, CA 94047

RECEIVED

SEP 5 2008  
RICHARD W. MEIKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STATE PRISON  
B4

Office of Clerk, US,  
District Court  
Northern District of  
California  
450 Golden Gate Avenue  
San Francisco, CA 94102



0905240072  
\$0.170  
SEP 02 2008  
US POSTAGE



9/1/08

*[Handwritten signature]*

**LEGAL MAIL**

Per CCR 15 Art 4 3141 C.2